

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SANTOS HERNANDEZ and EMANUEL DE JESUS
LIEVANO,

Plaintiffs,

20-cv-4026 (NCM) (SIL)

-against-

ROSSO UPTOWN LTD, MICHAEL TIZZANO, and
MASSIMO GAMMELLA,

Defendants.
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**Response by pro se Defendant Michael Tizzano to Report and
Recommendation.**

To Honorable Judge Natasha C. Merle and Judge Steven I. Locke

I, Michael Tizzano, pro se Defendant, submit this response to clarify and assert my position in the above-referenced case:

1. Incorrect Shareholder and Employer Allegations:

I was neither a shareholder nor an officer of Rosso Uptown LTD. I did not possess any ownership interest or authority within the corporation. The claims that I held such a position are inaccurate.

2. No involvement in Operations:

I was not involved in any capacity in the hiring, firing, scheduling, or payment of employees at Rosso Uptown LTD. Furthermore, I had no role in managing the day-to-day operations of the restaurant.

3. FLSA Employer definition Does Not Apply:

Given my lack of involvement and authority, I do not meet the criteria of an "employer" under the Fair Labor Standard Act (FLSA). I respectfully request the court to dismiss any claims against me that rely on this mischaracterization.

4. Inability to Retain Legal Counsel for Rosso Uptown LTD.:

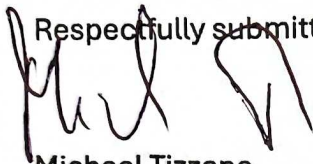
As I have no ownership or control over Rosso Uptown LTD., I am unable to retain legal counsel to defend the corporation. I cannot be held responsible for corporate obligations that do not pertain to me.

5. Request for Stay and Jury Trial:

I respectfully request the court to pause proceeding involving me and defer the matter to a jury trial to allow for a fair and impartial determination of any involvement-or lack thereof- in this matter.

I affirm all the information presented here is accurate to the best of my knowledge and request that the court take these clarifications into consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Tizzano', is written over the typed name.

Michael Tizzano

Dated December 26, 2024